



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2012-0556; FRL-9706-7]

Revisions to the Nevada State Implementation Plan,

Washoe County Air Quality District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Washoe County District Board of Health (WCDBOH) portion of the Nevada State Implementation Plan (SIP) that EPA expects to be submitted by the Nevada Division of Environmental Protection (NVDEP).

These revisions concern regulations regarding compliance with permit conditions, recordkeeping, source sampling and testing, and statements of compliance with 40 CFR Part 70 permits. These regulations generally regulate emissions of criteria pollutants such as volatile organic compounds (VOC), oxides of nitrogen (NO<sub>x</sub>), and particulate matter (PM). This proposed approval is based upon proposed regulations submitted by NVDEP and an accompanying request that EPA proceed with SIP review while the State and local agencies complete their public review and agency adoption processes. EPA will not take final action on these regulations until NVDEP submits the final adopted versions to

EPA as a revision to the Nevada SIP. Final EPA approval of the regulations and incorporation of them into the Nevada SIP would make them federally enforceable under the Clean Air Act (CAA). We are taking comments on this proposal and plan to follow with a final action.

**DATE:** Any comments must arrive by [Insert date 30 days from the date of publication in the Federal Register].

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2012-0556, by one of the following methods:

1. Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions.
2. E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail.

[www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* Generally, documents in the docket for this action are available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Allen, EPA Region IX, (415) 947-4120, [allen.cynthia@epa.gov](mailto:allen.cynthia@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

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### I. The State's Submittal

- A. What rules did the State submit?

By letter dated July 5, 2012, NVDEP submitted to EPA on behalf of WCDBOH, unofficial copies of several rules, with a request for approval of these provisions into the SIP by parallel processing.<sup>1</sup> See July 5, 2012 letter to Jared Blumenfeld, Regional Administrator, EPA Region 9, from Colleen Cripps, Administrator, NVDEP. Table 1 lists the four rules addressed by this proposal.

### Table 1 - Rules Submitted by Nevada for Parallel Processing

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<sup>1</sup> Under EPA's "parallel processing" procedure, EPA proposes rulemaking action concurrently with the State's proposed rulemaking. If the State's proposed rule is changed, EPA will evaluate that subsequent change and may publish another notice of proposed rulemaking. If no significant change is made, EPA will publish a final rulemaking on the rule after responding to any submitted comments. Final rulemaking action by EPA will occur only after the rule has been fully adopted by Nevada and submitted formally to EPA for incorporation into the SIP. See 40 CFR part 51, appendix V.

Local Agency	Rule #	Rule Title
WCDBOH	030.218	Demonstration of Compliance
WCDBOH	030.230	Record Keeping
WCDBOH	030.235	Requirements for Source Sampling and Testing
WCDBOH	030.970A	Part 70 Permit Monitoring and Compliance

The above rules have been adopted locally but have not been adopted specifically for purposes of approval into the federally enforceable SIP under CAA section 110. NVDEP has requested that WCDBOH adopt these regulations following public process for purposes of SIP approval and thereafter submit the rules to NDEP for transmittal to EPA as SIP revisions. Concurrent with these county processes, NVDEP anticipates that it will schedule a public hearing in August on its proposal to submit these rules to EPA for incorporation into the SIP, and intends to submit the final SIP revision to EPA by late August. We note that because the state and county rulemaking processes here are solely for purposes of adopting these regulations as SIP revisions under CAA section 110 and not for purposes of revising any of the regulations, we do not expect any substantive changes between the proposed and final submittals. Final approval of these

rules, however, is contingent upon EPA's receipt of fully adopted rules that satisfy state and local procedural requirements for SIP submittals.

B. Are there other versions of these rules?

There are no SIP-approved versions of WCDBOH Rules 030.218, 030.230, 030.235, and 030.970.

C. What is the purpose of the submitted rules?

The submitted rules govern demonstrating compliance with permit conditions, recordkeeping, source sampling and testing, and statements of compliance with 40 CFR Part 70 permits. These regulations generally regulate, among other things, emissions of criteria pollutants such as VOCs, NO<sub>x</sub> and PM. VOCs help produce ground-level ozone and smog, which harm human health and the environment. NO<sub>x</sub> helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. PM contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires States to submit regulations that control VOC, NO<sub>x</sub>, and PM emissions.

- Section 030.218, Demonstration of Compliance, states that the Control Officer may require the operator of a source to

provide any applicable data to demonstrate compliance with the conditions of the Permit to Operate.

- Section 030.230, Record Keeping, states that the Control Officer may require any holder of a Permit to Operate to keep adequate records concerning contaminant emissions for any equipment or process for which the permit was issued.
- Section 030.235, Requirement for Source Sampling and Testing, requires the APCO to determine the exact quantity and effect of emissions produced by stationary sources. The APCO may require source stack testing, or other types of source testing including, but not limited to, mass balance types of analysis, be made by the operator.
- Section 030.970A, Part 70 Permit Monitoring and Compliance, requires sources subject to 40 CFR Part 70 permitting requirements to submit an annual statement of compliance covering certain specified items.

EPA's technical support document (TSD) has more information about these rules.

## **II. EPA's Evaluation and Proposed Action**

### **A. How is EPA evaluating the rules?**

Generally, SIP rules must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(1) and 193). Guidance and policy documents that we

use to evaluate enforceability requirements consistently include the following:

1. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook).
2. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
3. State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990 (57 FR 13498, April 16, 1992) ("General Preamble").

B. Do the rules meet the evaluation criteria?

We believe these rules are consistent with the applicable requirements and guidance regarding enforceability and SIP relaxations. The TSD has more information on our evaluation.

C. Public comment and proposed action.

Because EPA believes the submitted rules fulfill all applicable CAA requirements, we are proposing to fully approve them under section 110(k)(3) of the Act. We will accept comments from the public on this proposal for the next 30 days. Unless we receive convincing new information during the comment period or NVDEP does not submit the adopted SIP revisions as expected, we intend to publish a final approval action that will incorporate these rules into the federally enforceable SIP.

### **III. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,  
Intergovernmental relations, Nitrogen dioxide, Ozone,  
Particulate matter, Reporting and recordkeeping requirements,  
Volatile organic compounds.

**AUTHORITY:** 42 U.S.C. 7401 *et seq.*

Dated: July 19, 2012

Signed: Jared Blumenfeld,  
Regional Administrator,  
Region IX.

[FR Doc. 2012-18500 Filed 07/27/2012 at 8:45 am; Publication Date: 07/30/2012]